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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SACRAMENTO**

KHAMTANH PHAKHAILATHVONE,  
individually, and on behalf of all others similarly  
situated,

Plaintiff,

vs.

ORANGE CRUSH ATHLETICS  
CORPORATION, a California corporation;  
WESTERN STATES WASTE, LLC, a limited  
liability company; NORTECH WASTE, INC., a  
California corporation; and DOES 1 through 10,  
inclusive,

Defendants

Case No.: 34-2021-00308178

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT:**

1. Failure to Pay Minimum and Regular Rate Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
2. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
3. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
4. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
5. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
6. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and
7. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.];
8. Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.].

**DEMAND FOR JURY TRIAL**

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1 Plaintiff Khamtanh Phakhailathvone (“Plaintiff”), based upon facts that either have  
2 evidentiary support or are likely to have evidentiary support after a reasonable opportunity for  
3 further investigation and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants Orange Crush Athletics  
6 Corporation, Western States Waste, LLC, Nortech Waste, Inc., and Does 1 through 10  
7 (collectively referred to as “Defendants”) for California Labor Code violations and unfair  
8 business practices stemming from Defendants’ failure to pay minimum and regular rate wages,  
9 failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit  
10 rest periods, failure to maintain accurate records of hours worked and meal periods, failure to  
11 timely pay all wages to terminated employees, and failure to furnish accurate wage statements.

12 2. Plaintiff brings the First through Seventh Causes of Action individually and as a  
13 class action on behalf of himself and certain current and former employees of Defendants  
14 (hereinafter collectively referred to as the “Class” or “Class Members” and defined more fully  
15 below). The Class consists of Plaintiff and all other persons who have been employed by any  
16 Defendant in California and classified as a non-exempt employee during the statute of limitations  
17 period applicable to the claims pleaded here.

18 3. Plaintiff brings the Eight Cause of Action as a representative action under the  
19 California Private Attorney General Act (“PAGA”) to recover civil penalties that are owed to  
20 Plaintiff, the State of California, and past and present employees of Defendants (hereinafter  
21 referred to as the “Aggrieved Employees”).

22 4. Defendants own/owned and operate/operated an industry, business, and establishment  
23 within the State of California, including Sacramento County. As such, and based upon all the  
24 facts and circumstances incident to Defendants’ business in California, Defendants are subject to  
25 the California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”),  
26 and the California Business & Professions Code.

27 5. Despite these requirements, throughout the statutory period Defendants maintained a  
28 systematic, company-wide policy and practice of:

- 1 (a) Failing to pay employees for all hours worked, including all minimum  
2 wages, overtime wages, in compliance with the California Labor Code and  
3 IWC Wage Orders;
- 4 (b) Failing to maintain accurate records of the hours employees worked;
- 5 (c) Failing to provide employees with timely and duty-free meal periods in  
6 compliance with the California Labor Code and IWC Wage Orders, failing  
7 to maintain accurate records of all meal periods taken or missed, and  
8 failing to pay an additional hour's pay for each workday a meal period  
9 violation occurred;
- 10 (d) Failing to authorize and permit employees to take timely and duty-free rest  
11 periods in compliance with the California Labor Code and IWC Wage  
12 Orders, and failing to pay an additional hour's pay for each workday a rest  
13 period violation occurred;
- 14 (e) Willfully failing to pay employees all minimum wages, overtime wages,  
15 meal period premium wages, and rest period premium wages due within  
16 the time period specified by California law when employment terminates;  
17 and
- 18 (f) Failing to provide employees with accurate, itemized wage statements  
19 containing all the information required by the California Labor Code and  
20 IWC Wage Orders.

21 6. On information and belief, Defendants, and each of them were on actual and  
22 constructive notice of the improprieties alleged herein and intentionally refused to rectify their  
23 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were  
24 willful and deliberate.

25 7. At all relevant times, Defendants were and are legally responsible for all of the  
26 unlawful conduct, policies, practices, acts and omissions as described in each and all of the  
27 foregoing paragraphs as the employer of Plaintiff and the Class. Further, Defendants are  
28

1 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of  
2 “respondeat superior”.

### 3 **THE PARTIES**

#### 4 **A. Plaintiff**

5 8. Plaintiff is a California resident who worked for Defendants in Sacramento County,  
6 California as a cleaner from approximately July 2019 to March 2021.

7 9. Plaintiff reserves the right to seek leave to amend this complaint to add new plaintiffs,  
8 if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American*  
9 *Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

#### 10 **B. Defendants**

11 10. Plaintiff is informed and believes, and based upon that information and belief  
12 alleges, that Defendant Orange Crush Athletics Corporation is:

- 13 (a) A California corporation with its principal place of business in Sacramento,  
14 California;
- 15 (b) A business entity conducting businesses in numerous counties throughout  
16 the State of California, including in Sacramento County; and
- 17 (c) The former employer of Plaintiff, and the current and/or former employers  
18 of the putative Class. Orange Crush Athletics Corporation suffered and  
19 permitted Plaintiff and the Class to work, and/or controlled their wages,  
20 hours, or working conditions.

21 11. Plaintiff is informed and believes, and based upon that information and belief  
22 alleges, that Defendant Western States Waste, LLC is:

- 23 (a) A limited liability company with its principal place of business in  
24 Sacramento, California;
- 25 (b) A business entity conducting businesses in numerous counties throughout  
26 the State of California, including in Sacramento County; and
- 27 (c) The former employer of Plaintiff, and the current and/or former employers  
28 of the putative Class. Western States Waste, LLC suffered and permitted

1 Plaintiff and the Class to work, and/or controlled their wages, hours, or  
2 working conditions.

3 12. Plaintiff is informed and believes, and based upon that information and belief  
4 alleges, that Defendant Nortech Waste, Inc. is:

- 5 (a) A California corporation with its principal place of business in Sacramento,  
6 California;
- 7 (b) A business entity conducting businesses in numerous counties throughout  
8 the State of California, including in Sacramento County; and
- 9 (c) The former employer of Plaintiff, and the current and/or former employers  
10 of the putative Class. Nortech Waste, Inc. suffered and permitted Plaintiff  
11 and the Class to work, and/or controlled their wages, hours, or working  
12 conditions.

13 13. Plaintiff does not know the true names or capacities of the persons or entities sued  
14 herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names.  
15 Each of the Doe Defendants was in some manner legally responsible for the damages suffered by  
16 Plaintiff and the Class as alleged herein. Plaintiff will amend this complaint to set forth the true  
17 names and capacities of these Defendants when they have been ascertained, together with  
18 appropriate charging allegations, as may be necessary.

19 14. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and  
20 each of them, were residents of, doing business in, availed themselves of the jurisdiction of,  
21 and/or injured a significant number of the Plaintiff and the Class in the State of California.

22 15. Plaintiff is informed and believes and thereon alleges that at all relevant times  
23 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and  
24 the other employees described in the class definitions below, and exercised control over their  
25 wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges  
26 that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer,  
27 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest  
28 and/or predecessor in interest of some or all of the other Defendants, and was engaged with some

1 or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to  
2 some or all of the other Defendants so as to be liable for their conduct with respect to the matters  
3 alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted  
4 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or  
5 should have known about, and authorized, ratified, adopted, approved, controlled, aided and  
6 abetted the conduct of all other Defendants.

7 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

8 16. Plaintiff worked for Defendants in Sacramento County, California as a cleaner  
9 from approximately July 2019 to March 2021. At all times Defendants classified Plaintiff as non-  
10 exempt from California's overtime requirements. During the statutory time period, Plaintiff was  
11 typically scheduled to work 5 days in a workweek, and typically in excess of 8 hours in a single  
12 workday.

13 17. Throughout the statutory period, Defendants failed to pay Plaintiff for all hours  
14 worked (including minimum wages and overtime compensation), failed to provide Plaintiff with  
15 uninterrupted meal periods, failed to authorize and permit Plaintiff to take uninterrupted rest  
16 periods, failed to maintain accurate records of the hours Plaintiff worked, failed to timely pay all  
17 final wages to Plaintiff when Defendants terminated Plaintiff's employment, and failed to furnish  
18 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for  
19 Defendants was typical and illustrative.

20 18. Throughout the statutory period, Defendants maintained a policy and practice of  
21 not paying Plaintiff and the Class for all hours worked, including all overtime wages. Defendants  
22 regularly use a system of time rounding in a manner that resulted, over a period of time, in failing  
23 to compensate Plaintiff and the Class properly for all the time they have actually worked, even  
24 though the realities of Defendants' operations are such that it is possible, practical, and feasible  
25 to count and pay for work time to the minute. As a result, Defendants frequently paid Plaintiff  
26 and the Class less than all their work time, some of which should have been paid at the overtime  
27 rate. Also throughout the statutory period, Plaintiff and the Class received non-discretionary  
28 bonuses and other compensation. However, Defendants failed to incorporate all remuneration

1 when determining the correct overtime rate of pay, leading to underpayment to Plaintiff and the  
2 Class. In maintaining a practice of not paying all wages owed, Defendants failed to maintain  
3 accurate records of the hours Plaintiff and the Class worked.

4 19. Throughout the statutory period, Defendants failed to provide the correct amount  
5 of paid sick days to Plaintiff and the Class, only providing a single day of paid sick days per  
6 year.

7 20. Throughout the statutory period, Defendants have wrongfully failed to provide  
8 Plaintiff and the Class with legally compliant meal periods. Defendants regularly, but not  
9 always, required Plaintiff and the Class to work in excess of five consecutive hours a day without  
10 providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours  
11 of work, or without compensating Plaintiff and the Class for meal periods that were not provided  
12 by the end of the fifth hour of work or tenth hour of work. Defendants did not adequately inform  
13 Plaintiff and the Class of their right to take a meal period by the end of the fifth hour of work, or,  
14 for shifts greater than 10 hours, by the end of the tenth hour of work. Defendants also did not  
15 have adequate policies or practices to document and verify whether Plaintiff and the Class were  
16 taking their required meal periods. Accordingly, Defendants' policy and practice was to not  
17 provide meal periods to Plaintiff and the Class in compliance with California law.

18 21. Throughout the statutory period, Defendants have wrongfully failed to authorize  
19 and permit Plaintiff and the Class to take timely and duty-free rest periods. Defendants regularly,  
20 but not always, required Plaintiff and the Class to work in excess of four consecutive hours a day  
21 without Defendants authorizing and permitting them to take a 10-minute, continuous and  
22 uninterrupted, rest period for every four hours of work (or major fraction of four hours), or  
23 without compensating Plaintiff and the Class for rest periods that were not authorized or  
24 permitted. Further, Plaintiff and the Class were not authorized to leave the premises during their  
25 rest periods. Accordingly, Defendants' policy and practice was to not authorize and permit  
26 Plaintiff and the Class to take rest periods in compliance with California law.

1           22.     Throughout the statutory period, Defendants willfully failed and refused to timely  
2 pay Plaintiff and the Class at the conclusion of their employment all wages, including overtime  
3 wages, meal period premium wages, and rest period premium wages.

4           23.     Throughout the statutory period, Defendants failed to furnish Plaintiff and the  
5 Class with accurate, itemized wage statements showing all applicable hourly rates, and all gross  
6 and net wages earned (including correct hours worked, correct wages earned for hours worked,  
7 correct overtime hours worked, correct wages for meal periods that were not provided in  
8 accordance with California law, and correct wages for rest periods that were not authorized and  
9 permitted to take in accordance with California law). As a result of these violations of California  
10 Labor Code § 226(a), Plaintiff and the Class suffered injury because, among other things:

- 11           (a)     the violations led them to believe that they were not entitled to be paid  
12                   minimum wages, overtime wages, meal period premium wages, and rest  
13                   period premium wages to which they were entitled, even though they were  
14                   entitled;
- 15           (b)     the violations led them to believe that they had been paid the minimum,  
16                   overtime, meal period premium, and rest period premium wages to which  
17                   they were entitled, even though they had not been;
- 18           (c)     the violations led them to believe they were not entitled to be paid  
19                   minimum, overtime, meal period premium, and rest period premium wages  
20                   at the correct California rate even though they were;
- 21           (d)     the violations led them to believe they had been paid minimum, overtime,  
22                   meal period premium, and rest period premium wages at the correct  
23                   California rate even though they had not been;
- 24           (e)     the violations hindered them from determining the amounts of minimum,  
25                   overtime, meal period premium, and rest period premium owed to them;
- 26           (f)     in connection with their employment before and during this action, and in  
27                   connection with prosecuting this action, the violations caused them to have  
28                   to perform mathematical computations to determine the amounts of wages

owed to them, computations they would not have to make if the wage statements contained the required accurate information;

- (g) by understating the wages truly due them, the violations caused them to lose entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and other governmental benefits;
- (h) the wage statements inaccurately understated the wages, hours, and wage rates to which Plaintiff and the Class were entitled, and Plaintiff and the Class were paid less than the wages and wage rates to which they were entitled.

Thus, Plaintiff and the Class are owed the amounts provided for in California Labor Code § 226(e).

### **CLASS ACTION ALLEGATIONS**

24. Plaintiff brings certain claims individually, as well as on behalf of each and all other persons similarly situated, and thus, seeks class certification under California Code of Civil Procedure § 382.

25. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

26. The proposed Class consists of and is defined as:

All persons who worked for any Defendants in California as an hourly-paid, non-exempt employee at any time during the period beginning four years before the filing of the initial complaint in this action and ending when notice to the Class is sent.

27. At all material times, Plaintiff was a member of the Class.

28. Plaintiff undertakes this concerted activity to improve the wages and working conditions of all Class Members.

29. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

- (a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical.

1 The membership of the entire Class is unknown to Plaintiff at this time,  
2 however, the Class is estimated to be greater than 100 individuals and the  
3 identity of such membership is readily ascertainable by inspection of  
4 Defendants' records.

5 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect  
6 the interests of each Class Member with whom there is a shared, well-  
7 defined community of interest, and Plaintiff's claims (or defenses, if any)  
8 are typical of all Class Members' claims as demonstrated herein.

9 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect  
10 the interests of each Class Member with whom there is a shared, well-  
11 defined community of interest and typicality of claims, as demonstrated  
12 herein. Plaintiff has no conflicts with or interests antagonistic to any Class  
13 Member. Plaintiff's attorneys, the proposed class counsel, are versed in  
14 the rules governing class action discovery, certification, and settlement.  
15 Plaintiff has incurred, and throughout the duration of this action, will  
16 continue to incur costs and attorneys' fees that have been, are, and will be  
17 necessarily expended for the prosecution of this action for the substantial  
18 benefit of each class member.

19 (d) Superiority: A Class Action is superior to other available methods for the  
20 fair and efficient adjudication of the controversy, including consideration  
21 of:

- 22 1) The interests of the members of the Class in individually
- 23 controlling the prosecution or defense of separate actions;
- 24 2) The extent and nature of any litigation concerning the controversy
- 25 already commenced by or against members of the Class;
- 26 3) The desirability or undesirability of concentrating the litigation of
- 27 the claims in the particular forum; and
- 28 4) The difficulties likely to be encountered in the management of a

class action.

(e) Public Policy Considerations: The public policy of the State of California is to resolve the California Labor Code claims of many employees through a class action. Indeed, current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are also fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights at the same time as their privacy is protected.

30. There are common questions of law and fact as to the Class (and each subclass, if any) that predominate over questions affecting only individual members, including without limitation, whether, as alleged herein, Defendants have:

- (a) Failed to pay Class Members for all hours worked, including minimum wages, and overtime wages;
- (b) Failed to provide meal periods and pay meal period premium wages to Class Members;
- (c) Failed to authorize and permit rest periods and pay rest period premium wages to Class Members;
- (d) Failed to promptly pay all wages due to Class Members upon their discharge or resignation;
- (e) Failed to provide Class Members with accurate wages statements;
- (f) Failed to maintain accurate records of all hours Class Members worked, and all meal periods Class Members took or missed; and
- (g) Violated California Business & Professions Code §§ 17200 *et. seq.* as a result of their illegal conduct as described above.

31. This Court should permit this action to be maintained as a class action pursuant to

1 California Code of Civil Procedure § 382 because:

- 2 (a) The questions of law and fact common to the Class predominate over any
- 3 question affecting only individual members;
- 4 (b) A class action is superior to any other available method for the fair and
- 5 efficient adjudication of the claims of the members of the Class;
- 6 (c) The members of the Class are so numerous that it is impractical to bring all
- 7 members of the class before the Court;
- 8 (d) Plaintiff, and the other members of the Class, will not be able to obtain
- 9 effective and economic legal redress unless the action is maintained as a
- 10 class action;
- 11 (e) There is a community of interest in obtaining appropriate legal and
- 12 equitable relief for the statutory violations, and in obtaining adequate
- 13 compensation for the damages and injuries for which Defendants are
- 14 responsible in an amount sufficient to adequately compensate the members
- 15 of the Class for the injuries sustained;
- 16 (f) Without class certification, the prosecution of separate actions by
- 17 individual members of the class would create a risk of:
  - 18 1) Inconsistent or varying adjudications with respect to individual
  - 19 members of the Class which would establish incompatible standards
  - 20 of conduct for Defendants; and/or
  - 21 2) Adjudications with respect to the individual members which would,
  - 22 as a practical matter, be dispositive of the interests of other
  - 23 members not parties to the adjudications, or would substantially
  - 24 impair or impede their ability to protect their interests, including but
  - 25 not limited to the potential for exhausting the funds available from
  - 26 those parties who are, or may be, responsible Defendants; and,
  - 27 (g) Defendants have acted or refused to act on grounds generally applicable to
  - 28 the Class, thereby making final injunctive relief appropriate with respect to

1 the class as a whole.

2 32. Plaintiff contemplates the eventual issuance of notice to the proposed members of the  
3 Class that would set forth the subject and nature of the instant action. The Defendants' own  
4 business records may be utilized for assistance in the preparation and issuance of the  
5 contemplated notices. To the extent that any further notices may be required, Plaintiff would  
6 contemplate the use of additional techniques and forms commonly used in class actions, such as  
7 published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by  
8 other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

9 **FIRST CAUSE OF ACTION**

10 **(Against all Defendants for Failure to Pay Minimum Wages for All Hours Worked)**

11 33. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
12 paragraphs 1 through 23 in this First Amended Complaint.

13 34. "Hours worked" is the time during which an employee is subject to the control of  
14 an employer, and includes all the time the employee is suffered or permitted to work, whether or  
15 not required to do so.

16 35. At all relevant times herein mentioned, Defendants knowingly failed to pay to  
17 Plaintiff and the Class compensation for all hours they worked. By their failure to pay  
18 compensation for each hour worked as alleged above, Defendants willfully violated the  
19 provisions of Section 1194 of the California Labor Code, and any additional applicable Wage  
20 Orders, which require such compensation to non-exempt employees.

21 36. Accordingly, Plaintiff and the Class are entitled to recover minimum wages for all  
22 non-overtime hours worked for Defendants.

23 37. By and through the conduct described above, Plaintiff and the Class have been  
24 deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

25 38. By virtue of the Defendants' unlawful failure to pay additional compensation to  
26 Plaintiff and the Class for their non-overtime hours worked without pay, Plaintiff and the Class  
27 suffered, and will continue to suffer, damages in amounts which are presently unknown to  
28

1 Plaintiff and the Class, but which exceed the jurisdictional minimum of this Court, and which  
2 will be ascertained according to proof at trial.

3 39. By failing to keep adequate time records required by California Labor Code §  
4 1174(d), Defendants have made it difficult to calculate the full extent of minimum wage  
5 compensation due Plaintiff and the Class.

6 40. Pursuant to California Labor Code section 1194.2, Plaintiff and the Class are  
7 entitled to recover liquidated damages (double damages) for Defendants' failure to pay minimum  
8 wages.

9 41. California Labor Code section 204 requires employers to provide employees with  
10 all wages due and payable twice a month. Throughout the statute of limitations period applicable  
11 to this cause of action, Plaintiff and the Class were entitled to be paid twice a month at rates  
12 required by law, including minimum wages. However, during all such times, Defendants  
13 systematically failed and refused to pay Plaintiff and the Class all such wages due, and failed to  
14 pay those wages twice a month.

15 42. Plaintiff and the Class are also entitled to seek recovery of all unpaid minimum  
16 wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code §§  
17 218.5, 218.6, and 1194(a).

## 18 **SECOND CAUSE OF ACTION**

### 19 **(Against all Defendants for Failure to Pay Overtime Wages)**

20 43. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
21 paragraphs 1 through 23 in this First Amended Complaint.

22 44. California Labor Code § 510 provides that employees in California shall not be  
23 employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless  
24 they receive additional compensation beyond their regular wages in amounts specified by law.

25 45. California Labor Code §§ 1194 and 1198 provide that employees in California  
26 shall not be employed more than eight hours in any workday unless they receive additional  
27 compensation beyond their regular wages in amounts specified by law. Additionally, California  
28

1 Labor Code § 1198 states that the employment of an employee for longer hours than those fixed  
2 by the Industrial Welfare Commission is unlawful.

3 46. At all times relevant hereto, Plaintiff and the Class have worked more than eight  
4 hours in a workday, as employees of Defendants.

5 47. At all times relevant hereto, Defendants failed to pay Plaintiff and the Class  
6 overtime compensation for the hours they have worked in excess of the maximum hours  
7 permissible by law as required by California Labor Code § 510 and 1198. Plaintiff and the Class  
8 are regularly required to work overtime hours.

9 48. By virtue of Defendants' unlawful failure to pay additional premium rate  
10 compensation to the Plaintiff and the Class for their overtime hours worked, Plaintiff and the  
11 Class have suffered, and will continue to suffer, damages in amounts which are presently  
12 unknown to them but which exceed the jurisdictional minimum of this Court and which will be  
13 ascertained according to proof at trial.

14 49. By failing to keep adequate time records required by Labor Code § 1174(d),  
15 Defendants have made it difficult to calculate the full extent of overtime compensation due to  
16 Plaintiff and the Class.

17 50. Plaintiff and the Class also request recovery of overtime compensation according  
18 to proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well  
19 as the assessment of any statutory penalties against Defendants, in a sum as provided by the  
20 California Labor Code and/or other statutes.

21 51. California Labor Code § 204 requires employers to provide employees with all  
22 wages due and payable twice a month. The Wage Orders also provide that every employer shall  
23 pay to each employee, on the established payday for the period involved, overtime wages for all  
24 overtime hours worked in the payroll period. Defendants failed to provide Plaintiff and the Class  
25 with all compensation due, in violation of California Labor Code § 204

26 **THIRD CAUSE OF ACTION**

27 **(Against All Defendants for Failure to Provide Meal Periods)**

52. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this First Amended Complaint.

53. Under California law, Defendants have an affirmative obligation to relieve the Plaintiff and the Class of all duty in order to take their first daily meal periods no later than the start of Plaintiff and the Class' sixth hour of work in a workday, and to take their second meal periods no later than the start of the eleventh hour of work in the workday. Section 512 of the California Labor Code, and Section 11 of the applicable Wage Orders require that an employer provide unpaid meal periods of at least 30 minutes for each five-hour period worked. It is a violation of Section 226.7 of the California Labor Code for an employer to require any employee to work during any meal period mandated under any Wage Order.

54. Despite these legal requirements, Defendants regularly failed to provide Plaintiff and the Class with both meal periods as required by California law. By their failure to permit and authorize Plaintiff and the Class to take all meal periods as alleged above (or due to the fact that Defendants made it impossible or impracticable to take these uninterrupted meal periods), Defendants willfully violated the provisions of Section 226.7 of the California Labor Code and the applicable Wage Orders.

55. Under California law, Plaintiff and the Class are entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s), plus interest thereon.

#### **FOURTH CAUSE OF ACTION**

##### **(Against All Defendants for Failure to Authorize and Permit Rest Periods)**

56. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this First Amended Complaint.

57. Defendants are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Section 512 of the California Labor Code, the applicable Wage Orders require that the employer permit and authorize all employees to take paid rest periods of 10 minutes each for each 4-hour period worked. Thus, for example, if an employee's work time is 6 hours and ten

1 minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so  
2 required is itself a violation of California's rest break laws. It is a violation of Section 226.7 of  
3 the California Labor Code for an employer to require any employee to work during any rest  
4 period mandated under any Wage Order.

5 58. Despite these legal requirements, Defendants failed to authorize Plaintiff and the  
6 Class to take rest breaks, regardless of whether employees worked more than 4 hours in a  
7 workday. By their failure to permit and authorize Plaintiff and the Class to take rest periods as  
8 alleged above (or due to the fact that Defendants made it impossible or impracticable to take  
9 these uninterrupted rest periods), Defendants willfully violated the provisions of Section 226.7 of  
10 the California Labor Code and the applicable Wage Orders.

11 59. Under California law, Plaintiff and the Class are entitled to be paid one hour of  
12 premium wages rate for each workday he or she was not provided with all required rest break(s),  
13 plus interest thereon.

#### 14 **FIFTH CAUSE OF ACTION**

#### 15 **(Against all Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time** 16 **Penalties)**

17 60. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
18 paragraphs 1 through 23 in this First Amended Complaint.

19 61. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if  
20 an employer discharges an employee, the wages earned and unpaid at the time of discharge are  
21 due and payable immediately, and that if an employee voluntarily leaves his or her employment,  
22 his or her wages shall become due and payable not later than seventy-two (72) hours thereafter,  
23 unless the employee has given seventy-two (72) hours previous notice of his or her intention to  
24 quit, in which case the employee is entitled to his or her wages at the time of quitting.

25 62. Within the applicable statute of limitations, the employment of Plaintiff and many  
26 other members of the Class ended, i.e. was terminated by quitting or discharge, and the  
27 employment of others will be. However, during the relevant time period, Defendants failed, and  
28 continue to fail to pay terminated Class Members, without abatement, all wages required to be

1 paid by California Labor Code sections 201 and 202 either at the time of discharge, or within  
2 seventy-two (72) hours of their leaving Defendants' employ.

3 63. Defendants' failure to pay Plaintiff and those Class members who are no longer  
4 employed by Defendants their wages earned and unpaid at the time of discharge, or within  
5 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor  
6 Code §§ 201 and 202.

7 64. California Labor Code § 203 provides that if an employer willfully fails to pay  
8 wages owed, in accordance with sections 201 and 202, then the wages of the employee shall  
9 continue as a penalty wage from the due date, and at the same rate until paid or until an action is  
10 commenced; but the wages shall not continue for more than thirty (30) days.

11 65. Plaintiff and the Class are entitled to recover from Defendants their additionally  
12 accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days  
13 maximum pursuant to California Labor Code § 203.

14 66. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiff and the  
15 Class are also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs  
16 incurred in this action.

### 17 **SIXTH CAUSE OF ACTION**

#### 18 **(Against all Defendants for Failure to Provide and Maintain Accurate and** 19 **Compliant Wage Records)**

20 67. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
21 paragraphs 1 through 23 in this First Amended Complaint.

22 68. At all material times set forth herein, California Labor Code § 226(a) provides that  
23 every employer shall furnish each of his or her employees an accurate itemized wage statement  
24 in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours  
25 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate  
26 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made  
27 on written orders of the employee may be aggregated and shown as one item, (5) net wages  
28 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the

1 employee and the last four digits of his or her social security number or an employee  
2 identification number other than a social security number, (8) the name and address of the legal  
3 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and  
4 the corresponding number of hours worked at each hourly rate by the employee.

5 69. Defendants have intentionally and willfully failed to provide employees with  
6 complete and accurate wage statements. The deficiencies include, among other things, the  
7 failure to correctly identify the gross wages earned by Plaintiff and the Class, the failure to list  
8 the true “total hours worked by the employee,” and the failure to list the true net wages earned.

9 70. As a result of Defendants’ violation of California Labor Code § 226(a), Plaintiff  
10 and the Class have suffered injury and damage to their statutorily-protected rights.

11 71. Specifically, Plaintiff and the members of the Class have been injured by  
12 Defendants’ intentional violation of California Labor Code § 226(a) because they were denied  
13 both their legal right to receive, and their protected interest in receiving, accurate, itemized wage  
14 statements under California Labor Code § 226(a).

15 72. Calculation of the true wage entitlement for Plaintiff and the Class is difficult and  
16 time consuming. As a result of this unlawful burden, Plaintiff and the Class were also injured as  
17 a result of having to bring this action to attempt to obtain correct wage information following  
18 Defendants’ refusal to comply with many of the mandates of California’s Labor Code and related  
19 laws and regulations.

20 73. Plaintiff and the Class are entitled to recover from Defendants the greater of their  
21 actual damages caused by Defendants’ failure to comply with California Labor Code § 226(a), or  
22 an aggregate penalty not exceeding four thousand dollars per employee.

23 74. Plaintiff and the Class are also entitled to injunctive relief, as well as an award of  
24 attorney’s fees and costs to ensure compliance with this section, pursuant to California Labor  
25 Code § 226(h).

26 **SEVENTH CAUSE OF ACTION**

27 **(Against all Defendants for Violation of California Business & Professions Code §§ 17200,**  
28 **et seq.)**

75. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this First Amended Complaint.

76. Defendants, and each of them, are “persons” as defined under California Business & Professions Code § 17201.

77. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff, other Class members, and to the general public. Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

78. Defendants’ activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200, *et seq.*

79. A violation of California Business & Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law. All of the acts described herein as violations of, among other things, the California Labor Code, are unlawful and in violation of public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code §§ 17200, *et seq.*

#### **Failure to Pay Minimum Wages**

80. Defendants’ failure to pay minimum wages, and other benefits in violation of the California Labor Code constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

#### **Failure to Pay Overtime Wages**

81. Defendants’ failure to pay overtime compensation and other benefits in violation of California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

#### **Failure to Maintain Accurate Records of All Hours Worked**

82. Defendants’ failure to maintain accurate records of all hours worked in accordance with California Labor Code § 1174.5 and the IWC Wage Orders constitutes unlawful and/or

1 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

2 **Failure to Provide Meal Periods**

3 83. Defendants' failure to provide meal periods in accordance with California Labor Code  
4 §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or  
5 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

6 **Failure to Maintain Accurate Records of Meal Periods**

7 84. Defendants' failure to maintain accurate records of employee meal periods in  
8 accordance with California Labor Code § 226.7 and the IWC Wage Orders, as alleged above,  
9 constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code  
10 §§ 17200, *et seq.*

11 **Failure to Authorize and Permit Rest Periods**

12 85. Defendants' failure to authorize and permit rest periods in accordance with California  
13 Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful and/or  
14 unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

15 **Failure to Provide Accurate Itemized Wage Statements**

16 86. Defendants' failure to provide accurate itemized wage statements in accordance  
17 with California Labor Code § 226, as alleged above, constitutes unlawful and/or unfair activity  
18 prohibited by California Business & Professions Code §§ 17200, *et seq.*

19 87. By and through their unfair, unlawful and/or fraudulent business practices  
20 described herein, the Defendants, have obtained valuable property, money and services from  
21 Plaintiff, and all persons similarly situated, and have deprived Plaintiff, and all persons similarly  
22 situated, of valuable rights and benefits guaranteed by law, all to their detriment.

23 88. Plaintiff and the Class Members suffered monetary injury as a direct result of  
24 Defendants' wrongful conduct.

25 89. Plaintiff, individually, and on behalf of members of the putative Class, are entitled  
26 to, and do, seek such relief as may be necessary to disgorge money and/or property which the  
27 Defendants have wrongfully acquired, or of which Plaintiff and the Class have been deprived, by  
28 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and

1 the Class are not obligated to establish individual knowledge of the wrongful practices of  
2 Defendants in order to recover restitution.

3 90. Plaintiff, individually, and on behalf of members of the putative class, are further  
4 entitled to and do seek a declaration that the above described business practices are unfair,  
5 unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them,  
6 from engaging in any of the above-described unfair, unlawful and/or fraudulent business  
7 practices in the future.

8 91. Plaintiff, individually, and on behalf of members of the putative class, have no  
9 plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members  
10 suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent business  
11 practices. As a result of the unfair, unlawful and/or fraudulent business practices described  
12 above, Plaintiff, individually, and on behalf of members of the putative Class, suffered and will  
13 continue to suffer irreparable harm unless the Defendants, and each of them, are restrained from  
14 continuing to engage in said unfair, unlawful and/or fraudulent business practices.

15 92. Plaintiff also alleges that if Defendants are not enjoined from the conduct set forth  
16 herein above, they will continue to avoid paying the appropriate taxes, insurance and other  
17 withholdings.

18 93. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff  
19 and putative Class Members are entitled to restitution of the wages withheld and retained by  
20 Defendants during a period that commences four years prior to the filing of this complaint; a  
21 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and  
22 Class Members; an award of attorneys' fees pursuant to California Code of Civil Procedure §  
23 1021.5 and other applicable laws; and an award of costs.

24 **EIGHT CAUSE OF ACTION**

25 **(Against all Defendants for Civil Penalties Under the Private Attorneys General Act of**  
26 **2004, Cal. Lab. Code § 2698 et seq.)**

27 94. Plaintiff incorporates by reference and re-alleges as if fully stated herein  
28 paragraphs 1 through 23 in this First Amended Complaint.

1           95. At all times herein mentioned, Defendants were subject to the Labor Code of the  
2 State of California and the applicable Industrial Welfare Commission Orders.

3           96. California Labor Code § 2699(a) specifically provides for a private right of action  
4 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of  
5 law, any provision of this code that provides for a civil penalty to be assessed and collected by  
6 the Labor and Workforce Development Agency or any of its departments, divisions,  
7 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,  
8 be recovered through a civil action brought by an aggrieved employee on behalf of himself or  
9 herself and other current or former employees pursuant to the procedures specified in Section  
10 2699.3.”

11           97. Plaintiff has exhausted his administrative remedies pursuant to California Labor  
12 Code § 2699.3. On September 11, 2021, Plaintiff gave written notice by online filing to the  
13 Labor and Workforce Development Agency and by certified mail to Defendants of the specific  
14 provisions of the Labor Code that Defendants have violated against Plaintiff and current and  
15 former aggrieved employees, including the facts and theories to support the violations. At the  
16 time of this filing, 65 days has elapsed since Plaintiff provided notice, but the Labor and  
17 Workforce Development Agency has not indicated that it intends to investigate Defendants’  
18 Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil  
19 action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of  
20 the Labor Code described in this Complaint. These penalties include, but are not limited to,  
21 penalties under California Labor Code §§ 210, 226.3, 558, 1197.1, and 2699(f)(2).

22           98. In addition, Plaintiff seeks penalties for Defendants’ violation of California Labor  
23 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,  
24 employing labor who willfully fails to maintain accurate and complete records required by  
25 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable  
26 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee  
27 begins and ends each work period. Meal periods, and total hours worked daily shall also be  
28

1 recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall  
2 keep total hours worked in the payroll period and applicable rates of pay.

3 99. During the time period of employment for Plaintiff and the Aggrieved Employees,  
4 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to  
5 maintain accurate records showing meal periods, and accurate records showing when employees  
6 begin and end each work period. Defendants' failure to provide and maintain records required by  
7 the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to  
8 know, understand and question the accuracy and frequency of meal periods, and the accuracy of  
9 their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved  
10 Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an  
11 unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved  
12 Employees have suffered and continue to suffer, substantial losses related to the use and  
13 enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking  
14 to compel Defendants to fully perform its obligation under state law, all to their respective  
15 damage in amounts according to proof at trial. Because of Defendants' knowing failure to  
16 comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved  
17 Employees have also suffered an injury in that they were prevented from knowing,  
18 understanding, and disputing the wage payments paid to them.

19 100. Based on the conduct described in this First Amended Complaint, Plaintiff is  
20 entitled to an award of civil penalties on behalf of himself, the State of California, and similarly  
21 Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is in  
22 an amount to be shown according to proof at trial. These penalties are in addition to all other  
23 remedies permitted by law.

24 101. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs  
25 pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in  
26 any action shall be entitled to an award of reasonable attorney's fees and costs."

27 ///

28 ///

1 **PRAYER FOR RELIEF**

2 Plaintiff, individually, and on behalf of all others similarly situated only with respect to  
3 the class claims, pray for relief and judgment against Defendants, jointly and severally, as  
4 follows:

5 **Class Certification**

- 6 1. That this action be certified as a class action with respect to the First, Second,  
7 Third, Fourth, Fifth, Sixth, and Eighth Causes of Action;  
8 2. That Plaintiff be appointed as the representative of the Class; and  
9 3. That counsel for Plaintiff be appointed as Class Counsel.

10 **As to the First Cause of Action**

- 11 4. That the Court declare, adjudge and decree that Defendants violated California Labor  
12 Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all minimum  
13 wages due;  
14 5. For general unpaid wages as may be appropriate;  
15 6. For pre-judgment interest on any unpaid compensation commencing from the date  
16 such amounts were due;  
17 7. For liquidated damages;  
18 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to  
19 California Labor Code § 1194(a); and,  
20 9. For such other and further relief as the Court may deem equitable and appropriate.

21 **As to the Second Cause of Action**

- 22 10. That the Court declare, adjudge and decree that Defendants violated California Labor  
23 Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime  
24 wages due;  
25 11. For general unpaid wages at overtime wage rates as may be appropriate;  
26 12. For pre-judgment interest on any unpaid overtime compensation commencing from  
27 the date such amounts were due;  
28 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to

California Labor Code § 1194(a); and,

14. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

15. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

16. For unpaid meal period premium wages as may be appropriate;

17. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

18. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and

19. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

20. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

21. For unpaid rest period premium wages as may be appropriate;

22. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

23. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and

24. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

25. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment;

26. For statutory wage penalties pursuant to California Labor Code § 203 for former employees who have left Defendants' employ;

27. For pre-judgment interest on any unpaid wages from the date such amounts were due;

28. For reasonable attorneys' fees and for costs of suit incurred herein; and

29. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders, and willfully failed to provide accurate itemized wage statements thereto;

31. For statutory penalties and actual damages pursuant to California Labor Code § 226(e);

32. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(h);

33. For reasonable attorneys' fees and for costs of suit incurred herein; and

34. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated California Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours worked (including minimum and overtime wages), failing to provide meal periods, failing to maintain accurate records of meal periods, failing to authorize and permit rest periods, failing to maintain accurate records of all hours worked and meal periods, and failing to furnish accurate wage statements;

36. For restitution of unpaid wages to Plaintiff and all Class Members and prejudgment interest from the day such amounts were due and payable;

37. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;

38. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure § 1021.5;

39. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code §§ 17200, *et seq.*; and,

40. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eight Cause of Action

41. That the Court declare, adjudge and decree that Defendants violated the California Labor Code by failing to pay wages for all hours worked (including minimum, and overtime wages), failing to provide meal periods, failing to maintain accurate records of meal periods, failing to authorize and permit rest periods, failing to maintain accurate records of all hours worked and meal periods, failing to indemnify necessary business expenses, failing to pay final wages at termination, and failing to furnish accurate wage statements;

42. For all actual, consequential and incidental losses and damages, according to proof.

43. For all civil penalties pursuant to California Labor Code § 2699, et seq., and all other applicable Labor Code provisions;

44. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code § 2699;

45. For such other and further relief as the Court may deem equitable and appropriate

As to all Causes of Action

46. For any additional relief that the Court deems just and proper.

Respectfully submitted,

Dated: November 23, 2021

MOON & YANG, APC

By: \_\_\_\_\_

Kane Moon  
Lilit Ter-Astvatsatryan

Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all causes of action triable by jury.

Dated: November 23, 2021

MOON & YANG, APC

By: \_\_\_\_\_

Kane Moon  
Lilit Ter-Astvatsatryan

Attorneys for Plaintiff

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not  
a party to the within suit; my business address is 1055 W. 7<sup>th</sup> Street, Suite 1880, Los Angeles, CA 90017.

4 On the date indicated below, I served the document described as: **FIRST AMENDED CLASS**  
5 **AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action by sending [  
6 ] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [ ] as stated on the  
attached service list:

7 **SMITH, MCDOWELL & POWELL**

8 A Law Corporation  
100 Howe Avenue, Suite 208S  
Sacramento, CA 95825

Johnny Ray  
755 Sunrise Ave., Suite 150  
Roseville, CA, CA 95661

9 *Registered Agent for Service of Process for*  
10 *Defendant Orange Crush Athletics Corporation*

*Registered Agent for Service of Process for*  
*Defendant Western States Waste, LLC*

11 Mark R. Lomele  
12 3033 Fiddymment Road  
Roseville, California 95747

13 *Registered Agent for Service of Process for Defendant Northtech Waste, Inc.,*

14 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The  
15 envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the  
16 firm's practice of collection and processing correspondence for mailing. Under that practice  
17 it would be deposited with U.S. postal service on that same day with postage thereon fully  
prepaid at Los Angeles, California in the ordinary course of business. I am aware that on  
motion of the party served, service is presumed invalid if postal cancellation date or postage  
meter date is more than one day after date of deposit for mailing in affidavit.

18 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
19 true and correct. Executed this **November 23, 2021** at Los Angeles, California.

20 Ivette Hernandez  
21 Type or Print Name

22   
23 Signature  
24  
25  
26  
27  
28